O/Insolvency/51

19 51 **File No.** 85/51

Legal Department

9 **BRANCH**

Subject:— Opinion on the Presidency Towns Insolvency Act, 1951.

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File No. 52/51

C O N T E N T S

Legal Department File No. O.Insolvency/51.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Opinions under the Presidency Towns Insolvency Act.	
1.	G-308 27-7-51.	Sections 17, 48 and 49(1)(a) Re: Recovery of Government claims from the insovent.	1-6.

JEE.24/7/56.5c.

Legal Department.

Presidency Towns Insolvency Act, 1909.

Sections 17, 48 and 49(1)(a)

Recovery of claims from In event C.P. Revasier of the Kolaba Transport Company.

From the copy of the agreement at slip 'A' it appears that the transport contract was entered into with the Kolaba Transport Company and that Shri C.P.Revasia has signed the contract for the Kolaba Transport Co. on the 28th September 1947. In his letter dated 21st May 1947, Shri Revasia styles himself as the Manager of the Central Motor Transport Co.,Kolaba but he has signed the letter dated 25th August 1948 as the partner of the Company. His Solicitors M/s Dayalji Dipchand in the notice of suit dated 16th January 1950 given to the Chief Secretary have stated that Shri Revasia along with other carried on the business of Transport contractors in partnership under the name and stybe of Kolaba Transport Company and become the sole proprietor thereof from 1st April 1948. Shri Revasia was adjudged an insolvent by the Bombay High Court on 6th February 1951 on the petition of M/s- New Era Agencies. Out of the amount of Rs.45538-7-1 which is due from Shri Revasia, the amount of about Rs.7500 is on account of the loss occasioned to Government by Shri Revasia's breach of contract in respect of the gur purchased by him at the auction sale which is presumbaly a personal debt and the balance is on account of advances made to him in pursuance of this transport contract made by the Kolaba Transport Co. For dues in respect of transport effected before 1st April 1948, the Company which was a partnership firm would be liable whereas in respect of dues incurred after 1st April 1948 the Company was a propriotory concern and Shri Revasia would be laible. The next question would be whether

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in respect of dues incurred after 1st April 1948the Compnay was a proprietory concern and Shri Revasia would be liable. The next question would be whether in the Insolvency law there is any provision giving preference to Government dues. Under section 17 of the Presidency Towns Insolvency Act the effect of the order of adjudication is that the property of the insolvent vests in the official assignee and becomes divisible among his creditors. Under section 48 read with th 2nd Schedule a creditor should lodge with the official assignee the proof of his debt as soon as may be after an adjudication order is made. Under section 49(1)(a) in distribution of the property of the insolvent the first priority is given to the debts due to the Government or any local authority. Government dues have therefore a prior claim.

The Civil Supplies Department may forward these papers to M/s. Little and Company as advised by the Government Pleader, High Court for putting in an affidavit on behalf of Government and for taking all necessary and further steps to prove the debt and recover the Government dues.

Id/- .....

Additional Secretary to Government.

U.R. to C.S.D., No.G-309,

dated the 27th July 1951.

JPE.25/7/56.4c.